

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MARK MCKINLEY,

Plaintiff,

v.

SGT. MOORE, et al.,

Defendants.

**STIPULATION OF VOLUNTARY
PARTIAL DISMISSAL PURSUANT
TO FED. R. CIV. P. 41**

21-CV-0678 (TJM/CFH)

WHEREAS, on or about August 5, 2021, Plaintiff filed the First Amended Complaint (“FAC”), *see* dkt. 10; and

WHEREAS, the FAC brought claims under the First, Eighth, and Fourteenth Amendments to the Constitution pursuant to 42 U.S.C. §1983; and

WHEREAS, on or about August 12, 2021, all Defendants moved to dismiss the Fourteenth Amendment cause of action in the FAC on the ground that the First Amendment cause of action subsumes the Fourteenth Amendment cause of action, *see* dkt. 12; and

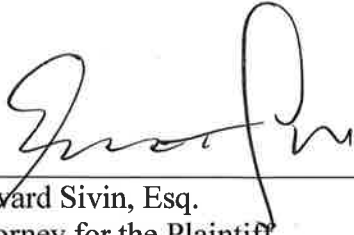
NOW, THEREFORE, pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, the parties to this action stipulate to the dismissal with prejudice of that cause of action brought pursuant to the Fourteenth Amendment characterized as “Second Cause of Action” in the FAC, without costs or fees to any party. The remaining causes of action—brought under the First and Eighth Amendments—are not affected by this stipulation.

Dated: August 26, 2021

Sivin, Miller, & Roche, LLP

Dated: August 27, 2021

Letitia James
Attorney General of the State of

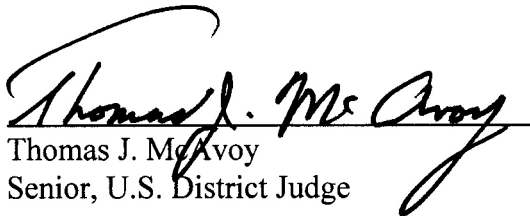


Edward Sivin, Esq.
Attorney for the Plaintiff
20 Vesey St., Suite 1400
New York, New York 10007

New York

/s/ Jonathan S. Reiner

Jonathan S. Reiner, of counsel
Assistant Attorney General, of counsel
Attorney for the Defendants
Litigation Bureau—Third Floor
The Capitol
Albany, New York 12224



Thomas J. McAvoy
Senior, U.S. District Judge

Dated: September 2, 2021